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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,000	01/17/2001	Jonathan Fine	20-073-JF	7718

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EXAMINER

PHILLIPS, CHARLES E

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 03/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/762,000

Applicant(s)

FINE ET AL.

Examiner

Charles E. Phillips

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 10 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 9, 11 - 19 are rejected under 35 U.S.C. 102 (b) as being anticipated by Guerette (U.S. patent No. 5,394,715).

In judging the propriety of this rejection, the claims are being analyzed as defining the structure of the faucet lock in terms of how it is intended to be used in its environment of a lavatory sink having wrist blade control handles.

The Guerette reference discloses a lock for a dispensing valve and includes a retainer or “base” (6), a “bracket” (10) having a first threaded end (37), and an opposite second end in the shape of a hook. As best illustrated in figure 6, the effective length of the bracket (10) can be adjusted by threading the threaded end (37) into the threaded hole (38). See column 3, lines 60 – 62). Referring to figures 3 and 4, the base (6) is designed to be mounted around a nut (2) or a part of the dispensing valve behind the handle (4) such that the hook may maintain the handle in locked position. See column 4, lines 37 – 45.

The introductory statement of intended use, “A faucet lock for use with a lavatory sink faucet having at least one wrist blade control handle” and all other statements of function have been carefully considered, but deemed not to impose any structural limitations on the claims distinguishable over the structure of the lock disclosed by Guerette. The lock mechanism of Guerette is inherently capable of being used in the manner set forth in the claims.

The recitation “for use with a lavatory sink faucet having at least one water wrist blade control handle” set forth in the preamble of claims 1 and 11 is a statement of the manner in which the claimed faucet lock is intended to be used. This statement of intended use is not deemed to impose any structural limitation on the faucet lock. Furthermore, the recitation “is positionable adjacent to said wrist blade control handle thereby regulating degree of freedom of rotation of said wrist blade control handle” set forth in the last two lines of claims 1 and 11 is likewise a statement of the capability of the claimed structure or the manner in which it is intended to be used. Like the “for use . . .” recitation in the preamble, this recitation does not impose any limitation on the claimed structure. It is clear that the claim is directed to a “faucet lock . . . said faucet lock comprising” and does not include either the lavatory sink or a wrist blade control handle.

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To the extent there is any doubt that the dispensing valve lock of Guerette is inherently capable of being used in an environment such as that set forth in the preamble of claims 1 or 11, and that such inherent characteristic is necessarily present when using the Guerette lock in such an environment, Applicant's attention is invited to the Harvey reference, U.S. patent No. 2,659,389, as extrinsic evidence of such an environment. See MPEP 2131.01. The Harvey reference illustrates the type of environment set forth in the claims. The faucet fixture disclosed projects from a wall (W) of a building above a lavatory sink or wash-tub such that the spout (E) overlies the sink. By employing the exact locking structure of Guerette and mounting the base (6) around nut (C) or around the conduit (31) in the Harvey device and hooking the hook of bracket (10) around blade control handle (21), the blade control handle would be maintained in a locked position in the same manner as the control handle in the Guerette device. It is noted that the hook end on the Guerette valve lies in a horizontal plane. However, the hook end, when attached to the Harvey valve, would lie in a vertical plane.

It is noted that nowhere in the specification has applicant provided a special definition for the terminology "wrist blade control handle" with reasonable clarity, deliberateness, and precision to give one of ordinary skill in the art notice of change from the terminology "blade control handle" that was initially employed in the original specification. See MPEP 2111.01. Thus, by giving such terminology its broadest reasonable interpretation (see MPEP 2111), the blade control handles of Harvey are rotatable by a user's wrist or elbow. On the other hand, it is noted that Applicant's specification discloses that the invention can be used on a wide variety of embodiments not just on a typical lavatory sink having blade type faucet handles. See page 4, lines 1 – 5; page 7, lines 16 – 20 and page 8, lines 11 – 15.

With respect to claims 2, 3, 12, and 13, the lock of Guerette is inherently capable of being used both in front of and behind a rear edge of a sink basin depending on how far away from the wall the sink basin is positioned.

With respect to claims 4 and 14, base (6) of the Guerette lock comprises brackets (7) and (8).

With respect to claims 5, 6, 15 and 16, depending on the dimensions of the water valve of the lavatory sink, the bracket (10) would be attached to the base (6) at various heights and lengths with respect to the valve structure itself. In other words, the base would simply be rotated such that hole (38) would be in a position necessary for the bracket to be mounted around the handle.

With respect to claims 7 and 17, since the valve lock is adjustable as discussed supra, it is capable of "providing variable limited use of said wrist blade control handle".

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With respect to claims 8 and 18, the Guerette device includes a second lock (34) for "securing said second end of said bracket in said position adjacent said control handle".

With respect to claims 9 and 19, the lock of Guerette is capable of being used on either the hot or cold valves of the Harvey device.

Claims 10 and 20 are objected to as depending from rejected claims.

Any inquiry concerning this communication should be directed to Charles E.

Phillips at telephone number 703-308-1515.

  
Charles E. Phillips  
Primary Examiner

  
RICHARD A. BERTSCH  
APPROVED  
TECHNOLOGY CENTER 3700